

Downtown Commission Meeting Minutes

at the June 12, 2009 regularly scheduled meeting held at the Office of Economic Development, 29 Haywood Street in downtown Asheville.

Commission members present: Chairman Jesse Plaster, Vice Chairman Dwight Butner (had to leave before any action was taken), Councilman Jan Davis, Peter Alberice, Asheville Downtown Association President Byron Greiner, John Rogers, Kitty Love, Brad Galbraith, Guadalupe Chavarria, Harry Weiss, Pam Myers

Commission members absent: none

Staff attending : City Attorney Bob Oast, Urban Planner Stephanie Monson, Urban Planner Jessica Bernstein, Planning Director Judy Daniel, Historic Resources Commission Director Stacey Merten, Transportation and Engineering Director Cathy Ball

GUESTS IN ATTENDANCE AS NOTED ON SIGN-IN SHEET

Paul F. Dismukes	pfdismukes@aol.com
Dawn Melton	dawn@elukegreene.com
Roy R. Harris (Mt Zion representative)	Royrharris@gmail.com
Briggs Price	briggs.price@wachovia.com
Harry Brown (COA)	hbrown@ashevillenc.gov
Jason Sandford	jsandford@mountainx.com
Bill Wescott	wwescott@charter.com
Steve Rasmussen	srasmus@aol.com
Jennifer Cathey	jennifer.cathey@ncdcr.gov

Chairman Jesse Plaster opened the meeting at 8:35 am

A motion to approve the May minutes was made by Councilman Jan Davis and seconded by Brad Galbraith; all voted in favor.

86 South Lexington Demolition Permit Review

Jan Davis made a motion to recuse Downtown Commission (DTC) member Harry Weiss from the 86 South Lexington demolition permit review; the motion was seconded by Byron Greiner; all voted in favor. Harry Weiss is employed by Public Interest Projects, Inc. which owns property associated with the 51 Biltmore/Aloft proposal.
(Staff Report)

Staff Report

Urban Planner Jessica Bernstein presented the staff report. She noted the permit application corresponds with the construction of the Aloft Hotel and City parking deck at 51 Biltmore Avenue, which was reviewed and approved by the Commission on September 12, 2008. The demolition will enable construction of a temporary parking lot to mitigate spaces lost during the construction process. While the Downtown Commission is required to formally vote on this item the actual approval or disapproval is not a binding decision on the application. In regards to any preservation concerns, staff believes these structures do not appear to be historic and notes they are not included in the National Register District or the *Historic Architectural Resources of Downtown Asheville North Carolina*.

Applicant Presentation

The development team for the corresponding new development project is a partnership between the City of Asheville's Transportation and Engineering Department and Public Interest Projects. Cathy Ball as City staff and Harry Weiss as Public Interest Projects staff were available to answer any Commission questions.

Public Comment

No public comment was received.

Commission Action

A motion was made by Byron Greiner to approve the application; seconded by John Rogers and all voted in favor.

Downtown Commission Bylaws

City Attorney Bob Oast presented the Commission with the latest draft of by-laws. DTC members provided comments and Oast agreed to bring the final draft to the next regularly scheduled meeting.

Downtown Master Plan (DTMP) Implementation

Planning Director Judy Daniel updated the Commission. Planning staff are working on Council direction regarding DTMP implementation; a matrix depicting responsible parties and suggested priorities is being updated. Daniel will coordinate completion of the matrix and bring the item to the DTC for review in July. The first priority for Council review will likely be changes to the Unified Development Ordinance (UDO) as suggested in strategy 4. Daniel suggested the DTC consider using the matrix as a guide for organizing their proposed ad hoc subcommittee on DTMP implementation. The DTC responded favorably to this process and noted they would like to use the ad hoc subcommittee to assist with public input moving forward.

UDO amendments

Daniel noted that the Planning and Development Services Department continues to work under Council direction developing amendments to the UDO that address the economic downturn. The last set of updates went to public hearing at City Council on June 9. Staff proposed seven code changes that will assist projects/businesses facing difficulties. The proposed wording amendments are focused in four areas of the UDO: threshold requirements that affect cumulative development (Article V); design and development standards (Article XI); sign regulations (Article XIII) and uses by right subject to special requirements (Article XVI).

Demolition Permit Review

51 South Market Street and 40 S. Spruce Street

Stand Alone Permit, Mt. Zion Applicant

Staff Report

Urban Planner Jessica Bernstein presented the Staff Report (which is on file and available at the Office of Economic Development, 29 Haywood Street in downtown Asheville; or at the Planning Department, 5th floor of Asheville City Hall).

She explained that while the Downtown Commission is required to review the permit application the Commission has no legal justification to prevent the demolition itself. The primary issue of concern for staff is that the relevant stakeholder/review bodies (mainly the Asheville-Buncombe Historic Resources Commission, Pack Square Redevelopment Committee, State Historic Preservation Office) were not able to review this application

and provide comment in a timely manner in relation to the scheduled Downtown Commission meeting. This lack of timely input, in conjunction with other factors, hinders the Commission's ability to ... "determine whether or not a preservation solution might be possible", as outlined in the adopted Downtown Design Review Guidelines.

Staff suggested that the Commission continue the vote until the July 10th meeting of the Downtown Commission. Staff also noted another area of concern is the review of a demolition permit not associated with a current development project; while this is currently allowed in the CBD (Central Business District) it is not a recommended policy, thus staff are researching how to prohibit speculative demolition and grading permits in the future.

Applicant Presentation

Roy R Harris, Chairman of the Mt.Zion Board of Trustees, appeared to present the church's application. He noted that the Commission had earlier in the meeting reviewed a (separate) demolition permit for South Lexington and that he hoped his demolition project would get approved in such a timely matter. Mr. Harris then declined to speak until Commission discussion began.

Public Comment

- Bill Westcott, Preservation Consultant

Commented against permit approval

Historical importance of saving the buildings/outlining of preservation issues
Believes community needs to separate social issues (vagrancy) to avoid mixed messages; can address both the historic and social issues without demolition

- Paul Reeves, Preservation Society Member

Commented against permit approval

Provided model of win win, stewardship-partnership: Preservation Society able to rent historic EW Grove Rental Office as their current office space, while City of Asheville maintains ownership. Preservation Society has invested \$125,000 to rehabilitate the building, City of Asheville able to keep building as asset.

- Steve Rasmussen, Preservation Activist

Commented against permit approval

Stressed that current development climate in Asheville is experiencing a "new wind"; evidenced by Downtown Master Plan process; official support for the proposed Performing Arts Center slated to sit across from Mt.Zion, and likely to positively benefit Mt. Zion especially if they save those buildings for the next five to ten years.

Commission Discussion

Stacey Merten, staff for the Historic Resources Commission (HRC), relayed that the HRC voted unanimously to recommend the following to the Downtown Commission: *that the Downtown Commission continue this item (postpone the vote) to allow time for the HRC to negotiate with Mt. Zion on a preservation solution for the structures.*

Planning Director Judy Daniel gave a brief synopsis of South Pack Square Committee meeting from earlier in the week. During said meeting Mr. Harris had indicated that the aforementioned buildings had for the last twenty years been ... "incoming reducing and not income producing"... for the Mt. Zion community. Daniel noted the extreme challenges facing the Mt.Zion community, notably a persistent and potentially dangerous issue with vagrants/squatters inside the building and a significant annual tax burden for a not for profit, aging community (church). She noted that she would not want to speak

for the church itself but felt it in the best interest of Commission deliberations to outline what staff had discovered this week. She asked Mr. Harris to please correct her if she misrepresented him or the church.

Mr. Harris chose to address the Commission at this time, and presented a history of the church, the aforementioned buildings, and their usage up to the present date. He summarized the failures of any redevelopment plans for the Mt.Zion owned property to present date. Mr. Harris clarified that from the church's perspective they feel they have made many good faith efforts over the years to develop partnerships and/or work with other community groups such as the Preservation Society, the YMI, or the City of Asheville in order to successfully rehabilitate these buildings. Mr. Harris acknowledged the issues brought up by Judy Daniel and distributed photographs of the interior building conditions/detriment left behind by squatters and vagrants.

Councilman Davis spoke directly to Mr. Harris. Davis noted that he respected the wishes of Mt. Zion and clearly understood the challenges they have been facing at this site.

At the same time he had to address the community's desire to see these buildings preserved as they were undoubtedly historically significant and contributed to the city's National Register District and to the S. Pack Square Redevelopment Plan. To that end Davis asked Mr. Harris to please allow the City to aggressively investigate preservation alternatives for these buildings over the next 30 days, realizing that any proposed alternatives would need to provide a win-win for the community and especially for the church. Davis said that one avenue he believes he can pursue is the potential redevelopment of the existing land area into a surface parking lot for City use. Davis noted that there is a clear need for City parking in that area, as well as public parking. There are City funds available specifically to help provide parking. Revenue could be provided for the church with the active use of the space as parking, and the active use is one of the strategies that could help address the vagrancy and security issue. Davis would like to pursue this and other preservation options with staff and with community stakeholders.

Other Commission comments included:

- While the Mt. Zion community felt that they had done their due diligence to work with others on redevelopment plans that included rehab over the years, it may also be true that many "others" had no idea of the vagrancy/security issues facing the church and that the church has been paying the full tax burden on all of the properties they own (minus the church itself).

- Safety is the primary concern of the community, the City's concern with the redevelopment in that area should prescribe an increase in public safety patrol and vigilance.

- Members must remember that they have several roles to play on the Downtown Commission; in addition to reviewing permits the Commission is charged with supporting the health and vitality of downtown by assisting in the resolution of downtown development issues. The Commission thus proposes to help resolve this issue, focusing on options that allow Mt Zion to maintain ownership and increase the value of their property.

- Mt Zion has paid all of the associated costs of upkeeping these buildings over the last twenty years, now if the community is benefitting from the preservation of these structures, then the community should pay for their preservation.

- Concern that the church might not be aware that if they demolish these buildings and choose to build surface parking on these lots on their own that they will still have to pay considerably to permit, design and construct a parking lot in compliance with the City's Unified Development Ordinance, Standards and Specifications, and the Landscaping Ordinance. Concern that plan will increase the church's burdens.

- From first hand knowledge the redevelopment of the church's property with a rehab component is untenable; many plans have been developed, in various economic climates, and all failed. It is unfair to continue this permit review as this is a private property decision. If the majority on the Commission chooses to continue this review, it should only be for thirty days.

-don't understand why Commission is acting like something can be done in thirty days, the community has had twenty years to address this issue.

- Most on the Commission seem to have reached a consensus that they would only continue this item for thirty days, even though they could procedurally delay this permit by continuing for a few months longer. This is a good faith effort, in order to have a complete information package as possible, in order to make a good decision.

-If the Commission acts to continue this item, here are four things that would need to happen in the next thirty days:

1. The City issues a letter of intent to execute a ground lease on this property, and the City is committing to any design and construction costs to develop surface parking
2. Preservation Society finds funding for building stabilization/security
3. City steps up public safety patrol
4. City clears building of detritus

Commission Action

John Rogers made a motion to continue the review of this permit until July 10, 2009- the next regularly scheduled Downtown Commission meeting; motion seconded by Kitty Love. The motion passed 7-2, with members Galbraith and Chavarria voting against.

Staff will gather options and coordinate between Commission members, City Council, Mr. Harris and the Mt. Zion community, and other stakeholders.

Meeting was adjourned at 10.50am